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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,181	01/10/2002	Clayton R. Rogers	01-13	1571
30699	7590	12/12/2003	EXAMINER	
DAYCO PRODUCTS, LLC 1 PRESTIGE PLACE MIAMISBURG, OH 45342			LUBY, MATTHEW D	
		ART UNIT		PAPER NUMBER
		3611		

DATE MAILED: 12/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/044,181	ROGERS ET AL.
	Examiner Matt Luby	Art Unit 3611

-- The MAILING DATE of this communication app ars on th cover she t with th correspondenc address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 10/2/03.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1-7, 15, 18 and 21-29 is/are pending in the application.
- 4a) Of the above claim(s) 6, 7, 18, 23 and 26-29 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5, 15, 21, 22, 24 and 25 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 02 October 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Election/Restrictions***

1. This application contains claims 6, 7 and 18-20 drawn to an invention nonelected without traverse in Paper No. 7. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.
2. Newly submitted claims 23 and 26-29 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: These claims are drawn to the same Species II, which was non-elected without traverse in Paper No. 7.
3. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 23 and 26-29 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Drawings***

4. It is noted that no second sheet including changes in red of proposed drawing corrections filed 10/2/03 was received (as was stated by Applicant on page 8).

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed "hydraulic pump driven by a belt" (claim 1) and the claimed "controlling means...integrated into the hydraulic accumulator" (claims 21 and 24) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
6. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

7. It is noted that Applicant did not provide a marked-up version of the changes made to the fifth full paragraph of page 3, on page 2 of the amendment filed 10/2/03.

### ***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
9. Claims 21, 22, 24 and 25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in

the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. There is no support for the limitations that the control means is integrated with the hydraulic accumulator in Applicant's disclosure.

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 1-5 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

12. The limitation "said power steering pump" (claim 1, lines 15-16 and claim 15, lines 16-17) has no antecedent basis.

13. The limitation "said rotary actuated proportional valve" (claim 1, lines 22-23 and claim 15, lines 23-24) has no antecedent basis.

14. The limitation "said hysteresis pressure switch" (claim 15, line 10) has no antecedent basis.

### ***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

16. Claims 1-3 and 15, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Saita et al. (U.S. Patent 5,950,757) in view of Applicants' Admitted Prior Art (AAPA).

17. Saita et al. disclose steering means which is a hydraulic power assisted steering system for use in a vehicle (col. 1, lines 6-9 and col. 2, line 56) including a pulley (8) powered by a crankshaft in the vehicle (col. 2, lines 63-65); a vehicle ignition power source (it is inherent that a vehicle has an ignition power source to allow ignition of the fuel in the engine); a hydraulic pump (9) driven by a belt (6) off of the pulley (Figure 1); a clutch coil (4) positioned between the pulley and the hydraulic pump, wherein the clutch coil is operably connected to the pulley (col. 2, lines 62-63); and controlling means (17) for engaging and disengaging the clutch with the pulley and the hydraulic pump to provide hydraulic power to the system (col. 3, lines 18-21), a hydraulic accumulator (12) operably connected (Figure 1) to the controlling means to insure that hydraulic power is available when the clutch is disengaged (Figure 1), wherein the hydraulic accumulator dampens transients in the hydraulic system such that the need for hydraulic noise reducing components are not required (Applicants admit on page 2, lines 17-19 that this is an inherent characteristic of hydraulic accumulators and therefore the hydraulic accumulator of Saita et al. does this), a check valve (11) operably connected to the hydraulic pump (Figure 1) to maintain hydraulic pressure in the hydraulic accumulator (12) when the clutch is disengaged (col. 3, lines 2-6 and col. 4, lines 1-11), a reservoir (24) containing hydraulic fluid wherein the reservoir is operably connected to the hydraulic pump (Figure 1), wherein the reservoir has a hydraulic fluid capacity equal to

the difference between the maximum charged amount of hydraulic fluid and the minimum discharged amount of hydraulic fluid in the hydraulic accumulator (as is well known in hydraulic fluid power systems, either one reservoir is provided, as is done by Saita et al., which has the capacity to meet all system demands, or multiple reservoirs are provided to meet such demands), an actuated control valve (2) operably connected to the reservoir and the check valve (Figure 1), wherein the actuated control valve is provided with a closed center to maintain pressure in the hydraulic accumulator until needed (col. 2, lines 55-56); and a power assist steering cylinder (3) operably connected to the actuated control valve and to a steering rack to provide power assist steering for the vehicle (an inherently obvious feature on all power steering systems of the type described in Saita et al.); wherein the controlling means is a hysteresis pressure switch (16 - col. 3, lines 40-45 and col. 4, lines 34-44 describe how the pressure switch, 16, and the control unit, 17, work to engage the clutch when the pressure within the passage, 10, is below a predetermined level and to disengage the clutch when the pressure is above a predetermined level, which is the very definition of pressure switch with a hysteresis).

18. Saita et al. do not specifically disclose that the actuated control valve is a rotary actuated proportional control valve.

19. AAPA disclose that it is well known to use a rotary actuated type proportional control valve connected to the reservoir of a hydraulic power steering system (Applicants' Prior Art Figure 1) in order to permit the flow of fluid and thereby turning of

the wheels in response to the operator's input at the steering wheel by the complex valve mechanism (paragraphs 5-7).

20. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a rotary actuated proportional control valve on the Saita et al. device, as taught by AAPA, in order to permit the flow of fluid and thereby turning of the wheels in response to the operator's input at the steering wheel by the complex valve mechanism.

21. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saita et al. in view of AAPA, as applied to claim 3 above, and further in view of Gage et al. (U.S. Patent 4,303,089).

22. Saita et al. disclose all of Applicants' claimed invention except that the pressure switch is connected to an electrical power source that is the vehicle ignition control system.

23. Gage et al. disclose that it is well known to connect a pressure switch (col. 4, line 22) to a source of electrical power that is the vehicle ignition control system (col. 4, lines 15-41) in order to supply energy to actuate the pressure switch when required (col. 4, lines 15-41 describe how this is done).

24. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a source of electrical power embodied as the vehicle ignition control system for the pressure switch of the Saita et al. system, as taught by Gage et al., in order to supply energy to actuate the pressure switch when required.

25. Claims 21, 22, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saita et al. in view of AAPA.

26. The modified Saita et al. system disclose all of Applicants' claimed invention except that the controlling means/hysteresis pressure switch is integrated into the hydraulic accumulator. It would have been obvious to one having ordinary skill in the art at the time the invention was made to integrated the controlling means/hysteresis pressure switch with the hydraulic accumulator in order to optimize space requirements of the steering system, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

### ***Response to Arguments***

27. Applicant's arguments filed 10/2/03 have been fully considered but they are not persuasive.

28. Applicant appears to argue in the first full paragraphs of pages 10 and 13 that the connections between the hydraulic accumulator and the control means is a direct connection and that Saita et al. provide these connections by means of a working passage.

29. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the "direct" connections) are not recited in the rejected claim(s). Although the

claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

30. Furthermore, Saita et al. clearly meet the only requirement of the claims in this regard, i.e., that the hydraulic accumulator is operably connected to the controlling means, as is shown in Figure 1 of Saita et al.

### ***Conclusion***

31. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

32 A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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33. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matt Luby whose telephone number is (703) 305-0441.

The examiner can normally be reached on Monday-Friday, 9:30 a.m. to 6:00 p.m..

34. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

35. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Matt Luby  
Examiner  
Art Unit 3611



Lesley D. Morris  
LESLEY D. MORRIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

M.I.  
December 1, 2003